IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE V.V.S.RAO
WRIT PETITION NO : 5205 of 1999

Between:
Sri Laxmi Narsimha Aided Upper Primary School,
Mandalur, Allagadda, Kurnool Dist. A.P., rep. by
Its Correspondent T.Srinivasulu, S/o.T.C.Rangaiah

..... PETITIONER

AND

1. The Government of Andhra Pradesh, rep.
   by its Secretary, Finance & Planning (FW)
   (Surplus Manpower Cell) Department,
   Secretariat, Hyderabad.
2. The Regional Joint Director of School Education,
   Cuddapah, Cuddapah District.
3. The District Educational Officer,
   Kurnool, Kurnool District.
4. The District Treasury Officer,
   Kurnool, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction in the nature of Writ of Mandamus declaring the impugned Memo.5S/1491/415/SWFC/98, dt.5.8.1998, as illegal, improper, unjust and contrary to law and further declare that the petitioner's school need not obtain clearance from the Finance Department twice and the 1st clearance is sufficient enough to proceed with the appointments.

Counsel for the Petitioner:MR.MOOSA AHMED

Counsel for the Respondent Nos.1 to 4: GP FOR SCHOOL EDUCATION

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.5205 OF 1999

ORDER:

The petitioner is Aided Upper Primary School. It is their case that when the School intended to fill up vacant aided posts, it was advised to obtain necessary sanction from the Finance Department as per G.O.Ms.No.275, dt.14.12.1995. Therefore, the present writ petition is filed for a declaration that the said G.O. is not applicable to the school.

The main contention is that Statutory Rules made in G.O.Ms.No.1, dt.1.1.1994 govern the regulation of appointment of teachers and non-teaching staff in the petitioner school and therefore the same cannot be superceded by executive instructions. The question raised in this writ petition is no more *res integra*. A Division Bench of this Court, to which I was a party, in Writ Appeal No.1426 of 1999 and batch categorically, held that G.O.Ms.No.275, dated 14.12.1995 cannot be applied to private aided schools which are governed by Statutory Rules. In view of this, the Writ Petition is allowed. No costs.

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(V.V.S.RAO, J)

25.8.2004
bnr

The Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Wednesday, the Twenty Fifth Day of August Two Thousand and Four

DEPUTY REGISTRAR

To

To

1. The Secretary,
   Finance & Planning (FW) (Surplus Manpower Cell) Department,
   Government of Andhra Pradesh, Secretariat, Hyderabad. (with a copy of order in W.A. No.1426 of 1999)
2. The Regional Joint Director of School Education,
   Cuddapah, Cuddapah District.
3. The District Educational Officer,
   Kurnool, Kurnool District.
4. The District Treasury Officer,
   Kurnool, Kurnool District.
5. 2CCs to G.P. for School Education, High Court Bldgs., Hyderabad (OUT)
6. 2CD copies